

REMARKS

Applicant thanks the Examiner for his courtesy during the telephone interview conducted on November 17, 2008. During the interview, pending claims 18, 22, 28, and 32-61 were discussed in light of U.S. Patent No. 6,430,711 and the other references cited in the August 7, 2008 Office Action (the "Office Action"). Applicant submits this Reply to amend the claims and formally submit the arguments advanced during the interview.

In the Office Action, the Examiner rejected claims 38, 44, and 50 under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite, and rejected claims 18, 22, 28, 32-37, 39-43, 45-49, and 51-61 as being dependent on claims 38, 44, and 50. The Examiner also rejected claims 18, 22, 28, 32-38, 40-44, 46-50, and 52-61 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Sekizawa* (U.S. Patent No. 6,430,711) ("*Sekizawa*") in view of *Peterson et al.* (U.S. Patent No. 6,324,522) ("*Peterson*"); rejected claims 39, 45, and 51 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Sekizawa* in view of *Peterson* and in further view of *Haluska* (U.S. Patent No. 5,638,519) ("*Haluska*"); and rejected claims 59, 60, and 61 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Sekizawa* in view of *Peterson* as applied to claims 38, 44, and 52, and further in view of *Huang et al.* (U.S. Patent No. 5,953,707) ("*Huang*"). In addition, the Examiner rejected claims 18, 22, 28, 38-61 under 35 U.S.C. § 101 as being allegedly ineligible for patenting.

By this amendment, Applicant has amended claims 32-38, 42, 44, 48, 50, and 54 to clarify aspects of the invention. In view of these amendments, and the discussion

below, Applicant respectfully requests reconsideration of the application and withdrawal of the rejections of pending claims 18, 22, 28, and 32-61.

Section 112 Rejections

In the Office Action, claims 38, 44, and 50 were rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite, and claims 18, 22, 28, 32-37, 39-43, 45-49, and 51-61 were rejected as being dependent on allegedly indefinite claims 38, 44, and 50. The Examiner also objected to claims 42, 48, and 54 as lacking a proper antecedent basis.

By this Reply, Applicant has amended claims 32-38, 42, 44, 48, 50, and 54 to replace the previous claim terms “environment users” and “users” with the terms “manufacturers” and “service providers,” as appropriate. Further, in accordance with the discussion with the Examiner during the interview, claims 38, 44, and 50 are amended to clarify how the “offerings from the plurality of manufacturers” interrelate to the other elements of the claimed invention. Therefore, Applicant respectfully submits that claims 32-38, 42, 44, 48, 50, and 54 are in condition to overcome the current rejections under 35 U.S.C. § 112, second paragraph.

Section 103 Rejections

The Examiner rejected claims 18, 22, 28, 32-38, 40-44, 46-50, and 52-61 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Sekizawa* in view of *Peterson*; rejected claims 39, 45, and 51 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Sekizawa* in view of *Peterson* and in further view of *Haluska*; and rejected claims 59, 60, and 61 under 35 U.S.C. § 103(a) as being allegedly

unpatentable over *Sekizawa* in view of *Peterson* as applied to claims 38, 44, and 52, and further in view of *Huang*. Applicant respectfully traverses these rejections because the cited prior art references do not disclose or suggest each of the claim recitations of independent claims 38, 44, and 50, in light of the decision by the U.S. Supreme Court in *KSR Int'l. Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). See M.P.E.P. § 2141, 8th Ed., Rev. 6 (Sept. 2007).

“The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” M.P.E.P. § 2141(III). “The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” *Id.* “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* (internal citations omitted).

As discussed with the Examiner, neither *Sekizawa*, nor any obvious variant thereof, teaches or suggests at least “receiving ... a plurality of notices for recommended maintenance and service from a plurality of manufacturers,” in combination with “receiving ... a plurality of requests for maintenance and service from a plurality of service providers.” *Sekizawa* is not concerned with managing communications among both manufacturers and service providers. Rather, the disclosure of *Sekizawa* focuses on monitoring machine states, and dispatching maintenance personnel as necessary to service the machines. Indeed, *Sekizawa*, considered as a whole, see M.P.E.P. 2141.02, entirely omits a discussion of

communicating with two different parties, namely manufacturers and service providers, as required by claims 38, 44, and 50. For at least this reason, a *prima facie* case of obviousness has not been established regarding claims 38, 44, and 50.

Furthermore, lacking an “e-commerce supply chain manager” communicating with both manufacturers and service providers, *Sekizawa* also fails to teach or suggest “managing the plurality of notices for recommended maintenance and service received from the plurality of manufacturers, and the plurality of requests for maintenance and service received from the plurality of service providers ... by matching service providers with manufacturers according to the planned demand and supply of manufacturer offerings and the monitored manufacturer availability.” Still further, the prior art does not suggest “providing scheduling of maintenance and service ... using the plurality of notices from the plurality of manufacturers matched to the plurality of requests from the plurality of service providers.” As mentioned above, *Sekizawa* fails to disclose “receiving ... a plurality of notices for recommended maintenance and service from a plurality of manufacturers” and “receiving ... a plurality of requests for maintenance and service from a plurality of service providers.” *Sekizawa* also fails to teach at least the interrelationships of these claimed elements and functions of claims 38, 44, and 50. For at least these further reasons, the gap between the prior art and the claims is so great that a *prima facie* case of obviousness has not been established regarding claims 38, 44, and 50.

Lastly, while a *prima facie* case of obviousness regarding claims 38, 44, and 50 has not been established for at least the reasons provided above, Applicant observes

that even if a *prima facie* case of obviousness had been established, it is rebutted here because “the elements in combination do not merely perform the function that each element performs separately.” M.P.E.P. § 1241(V)(B). In claims 38, 44, and 50, the elements of, *inter alia*, a “plurality of notices for recommended maintenance and service from a plurality of manufacturers,” a “plurality of requests for maintenance and service received from a plurality of service providers,” and an “e-commerce supply chain manager” are recited. Although if considered separately these elements may perform relatively limited functions, in the present claims they combine synergistically to provide “demand and supply planning of offerings ..., order management and fulfillment, asset management, maintenance and service scheduling, inventory management, and distribution logistics for entities within the e-commerce supply chain environment.” As just one particular example, part (e) of claims 38, 44, and 50 recites “matching service providers with manufacturers according to the planned demand and supply of manufacturer offerings and the monitored manufacturer availability,” a functionality possible only by combining the above-mentioned elements as recited in claims 38, 44, and 50. For at least this reason, even if a *prima facie* case of obviousness had been established regarding claims 38, 44, and 50, the combined improved benefits of the elements in claims 38, 44, and 50 would be sufficient to rebut the *prima facie* case, and render the claims nonobvious.

Applicant respectfully submits that claims 38, 44, and 50, as amended, are nonobvious under 35 U.S.C. § 103(a) over *Sekizawa*, and asks that the rejections be withdrawn. In addition, Applicant notes that, “[i]f an independent claim is nonobvious

under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” M.P.E.P. § 2143.03. Claims 18, 32-33, 39-43, 56, and 59 depend from nonobvious claim 38; claims 22, 34-35, 45-49, 57, and 60 depend from nonobvious claim 44; and claims 28, 36-37, 52-55, 58, and 61 depend from nonobvious claim 50. Applicant therefore respectfully requests that the rejections under 35 U.S.C. § 103(a) of claims 18, 22, 28, 32-37, 39-43, 45-49, and 51-61 also be withdrawn.

Section 101 Rejections

Finally, the Examiner rejected claims 18, 22, 28, 38-61 under 35 U.S.C. § 101 as being allegedly ineligible for patenting. In particular, the Examiner stated that claims 18, 38-43, 56, and 59 do not transform subject matter or recite a tie to a particular machine. Office Action, p. 7. Additionally, the Examiner stated that claims 22, 28, 44-55, 57, 58, 60, and 61 recited a “computer program embodied on a computer readable medium ... comprising code segment(s) for performing ...,” and that as such, did not recite a product claim. Office Action, p. 8.

By this Reply, Applicant has amended claim 38 to clarify that the method recited in this embodiment is implemented in computer hardware. Therefore, claim 38 and its dependent claims are tied to a particular machine, and satisfy the current test for 35 U.S.C. § 101. Similarly, Applicant has amended claims 44 and 50 to clarify that these claims and their dependent claims recite modules and code segments, respectively, embodied on computer readable hardware media. Therefore, Applicant requests the reconsideration and withdrawal of the section 101 rejections of amended claims 38, 44,

and 50, and the claims which depend therefrom, indirectly reciting the amended language.

Conclusion

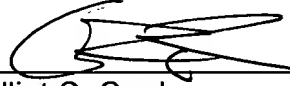
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: December 5, 2008

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